

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

James Grace,

Case No. 21-CV-1684 (PAM/JFD)

Petitioner,

v.

REPORT AND RECOMMENDATION

B. Birkholz, Warden of Federal Prison
Camp Duluth; and Michael Carvajal,
Director of the Federal Bureau of Prisons,
in their official capacities,

Respondents.

Upon commencing this action, Petitioner James Grace neither paid the \$5.00 filing fee for this matter nor applied for *in forma pauperis* (“IFP”) status. Consistent with Local Rule 4.2, the Clerk of Court informed Mr. Grace that he would be required to pay the filing fee or submit an IFP application, failing which this matter could be summarily dismissed without prejudice. (Dkt. No. 4.) An application for IFP status was included with the letter to Mr. Grace.

Thirty days have now passed since Mr. Grace was informed that he would be required to pay the filing fee or submit an IFP application if he intended to prosecute this action. The Court has received neither the fee nor an IFP application from Mr. Grace. In fact, Mr. Grace has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends that this action be dismissed without prejudice under Rule 41(b) of the Federal Rules of Civil Procedure for

failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: August 23, 2021

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).